

Documents on Diplomacy: The Source

Plan of the Treaties with France of 1778 *September 17, 1776*

Congress took into consideration the plan of treaties to be proposed to foreign nations, [with] the amendments proposed by the committee of the whole.

Resolved, That the following plan of a treaty be proposed to His Most Christian Majesty.

There shall be a firm inviolable and universal peace and a true and sincere friendship between the most serene and mighty Prince Lewis sixteenth the most Christian King his heirs and successors and the United States of America; and the subjects of the most Christian King and of the said states; and between the countries, islands cities and towns situate under the jurisdiction of the most Christian King and of the said united states and the people and inhabitants thereof of every degree; without exception of persons or places; and the terms herein mentioned shall be perpetual between the most Christian King, his heirs and successors & the United States.

ART. I.

The Subjects of the most Christian King shall pay no other Duties or Imposts in the Ports, Havens, Roads, Countries, Islands, Cities, or Towns of the said united States or any of them, than the Natives thereof, or any Commercial Companies established by them or any of them, shall pay, but shall enjoy all other the Rights, Liberties, Privileges, Immunities, and Exemptions in Trade, Navigation and Commerce in passing from one Part thereof to another, and in going to and from the same, from and to any Part of the World, which the said Natives, or Companies enjoy.

ART. II.

The Subjects, People and Inhabitants of the said united States, and every of them, shall pay no other Duties, or Imposts in the Ports, Havens, Roads, Countries, Islands, Cities, or Towns of the most Christian King, than the Natives of such Countries, Islands, Cities, or Towns of France, or any commercial Companies established by the most Christian King shall pay, but shall enjoy all other the Rights, Liberties, Privileges, Immunities and Exemptions in Trade, Navigation and Commerce, in passing from one port [Part] thereof to another, and in going to and from the same, from and to any Part of the World, which the said Natives, or Companies enjoy.

ART. III.

His most Christian Majesty shall retain the same Rights of Fishery on the Banks of Newfoundland, and all other Rights relating to any of the said Islands, which he is entitled to by virtue of the Treaty of Paris.

ART. IV.

The most Christian King shall endeavour, by all the Means in his Power to protect and defend all Vessels, and the Effects belonging to the Subjects, People, or Inhabitants of the said united States, or any of them, being in his Ports, Havens, or Roads, or on the Seas, near to his Countries, Islands, Cities, or Towns, and to recover and to restore, to the right owners, their Agents or Attornies, all such Vessells, and Effects, which shall be taken, within his Jurisdiction; and his Ships of War, or any Convoys sailing under his Authority, shall upon all occasions, take under their Protection all Vessells belonging to the Subjects, People or Inhabitants of the said United States, or any of them, and holding the same Course, or going the same Way, and shall defend such Vessells US long as they hold the same Course, or go the same Way, against all Attacks, Force, and Violence, in the same manner, as they ought to protect and defend Vessells belonging to the Subjects of the most Christian King.

ART. V.

In like manner the said United States, and their Ships of War and Convoys sailing under their Authority shall protect and defend all Vessells and Effects belonging to the Subjects of the most Christian King, and endeavour to recover and restore them, if taken within the Jurisdiction of the said United States, or any of them.

ART. VI.

The most Christian King and the said United States shall not receive, nor suffer to be received into any of their Ports, Havens, Roads, Countries, Islands, Cities or Towns, any Pirates, or Sea Robbers, or afford, or suffer any Entertainment, Assistance, or Provisions to be afforded to them, but shall endeavour by all Means, that all Pirates, and Sea Robbers, and their Partners, Sharers, and Abettors be found out, apprehended, and suffer eondign Punishment; and all the Vessels and Effects piratically taken, and brought into the Ports or leavens of the most Christian King, or the said United States, which can be found, altho they be Sold, shall be restored, or Satisfaction given therefor to the right owners, their Agents or Attornies demanding the same, and making the right of Property to appear by due Proof.

ART. VII.

The most Christian King shall protect, defend and secure, as far as in his Power, the Subjects, and Inhabitants of the said United States and every of them, and their Vessells and Effect of every Kind, against all Attacks, Assaults, Violences, Injuries, Depredations or

Plunderings by or from the King or Emperor of Morocco, or Fez, and the States of Algiers, Tunis and Tripoli, and any of them, and every other Prince, State and Power, on the Coast of Barbary in Africa and the Subjects of the said King, Emperor, States, and Powers, and of every of them, in the same manner, and as effectually and fully, and as much to the Benefit Advantage Ease and Safety of the said United States and every of them, and of the Subjects, People, and Inhabitants thereof, to all Intents and Purposes, as the King and Kingdom of Great Britain, before the Commencement of the present War, protected, defended, and secured the People and Inhabitants of the said United States, then called the British Colonies, in America, their Vessels and Effects, against all such attacks, Assaults, Violences, Injuries, Depredations and Plunderings.

ART. VIII.

If, in Consequence of this Treaty, the King of Great Britain, should declare War, against the most Christian King, the said United States shall not assist Great Britain, in such War, with Men, Money, Ships, or any of the Articles in this treaty denominated Contraband Goods.

ART. IX.

The most Christian King, shall never invade, nor under any presence attempt to possess himself of Labradore, New Britain, Nova Scotia, Acadia, Canada, Florida, nor any of the Countries, Cities, or Towns, on the Continent of North America, nor of the Islands of Newfoundland, Cape Breton, St. John's, Anticosti, nor of any other Island lying near to the said Continent, in the Seas, or in any Gulph, Bay, or River, it being the true Intent and meaning of this Treaty, that the said United States, shall have the sole, exclusive, undivided and perpetual Possession of the Countries, Cities, and Towns, on the said Continent, and of all Islands near to it, which now are, or lately were under the Jurisdiction of or Subject to the King or Crown of Great Britain, whenever they shall be united or confederated with the said United States.

ART. X.

The subjects, inhabitants, merchants, commanders of ships, masters and mariners, of the states, provinces and dominions of each party, respectively, shall abstain and forbear to fish in all places, possessed, or which shall be possessed by the other party. The most Christian king's subjects shall not fish in the havens, bays, creeks, roads, coasts or places which the said United States hold, or shall hereafter hold; and in like manner, the subjects, people and inhabitants of the said United States shall not fish in the havens, bays, creeks, roads, coasts or places which the most Christian king possesses, or shall hereafter possess. And if any ship or vessel shall be found fishing, contrary to the tenor of this treaty, the said ship or vessel, with its lading, proof being made thereof, shall be confiscated.

ART. XI.

If in any War, the most Christian King, shall conquer, or get Possession of the Islands in the West Indies, now under the Jurisdiction of the King or Crown of Great Britain, or any of them, or any Dominions of the said King or Crown in any other Parts of the World, the Subjects, People and Inhabitants of the said United States, and every of them, shall enjoy the same Rights, Liberties, Privileges, Immunities and Exemptions in Trade, Commerce and Navigation, to and from the said Islands, and Dominions, that are mentioned in the Second Article of this Treaty.

ART. XII.

It is the true Intent and Meaning of this Treaty, that no higher or other Duties shall be imposed on the Exportation of any Thing of the Growth, Production, or Manufacture of the Islands in the West Indies now belonging or which may hereafter belong to the most Christian King, to the said United States, or any of them, than the lowest that are or shall be imposed on the Exportation thereof to France or to any other Part of the World.

ART. XIII.

It is agreed, by and between the said Parties that no Duties whatever shall ever here after be imposed on the Exportation of Molasses, from any of the Islands and Dominions of the most Christian King in the West Indies to any of these United States.

ART. XIV.

The Subjects, People, and Inhabitants of the United States, or any of them, being Merchants and residing in France, and their Property, and Effects of every Kind, shall be exempt from the Droit d'Aubaine.

ART. XV.

The Merchant Ship of either of the Parties, which shall be making into a Port belonging to the Enemy of the other Ally, and concerning whose Voyage, and the Species of Goods on board her, there shall be just Grounds of Suspicion, shall be obliged to exhibit, as well upon the high Seas as in the Ports and Havens, not only her Passports, but like wise Certificates, expressly shewing that her Goods are not of the Number of those which have been prohibited, as Contraband.

ART. XVI.

If by the exhibiting of the above Certificates, the other Party discover there are any of those Sorts of Goods, which are prohibited and declared Contraband, and consigned for a Port under the obedience of his Enemies, it shall not be lawfull to break up the Hatches of such Ship, or to open any Chest, Coffers, Packs, Casks, or any other Vessels found therein or to remove the smallest Parcels of her Goods, whether such Ship belong to the Subjects of France, or the Inhabitants of the said United States, unless the lad-

ing be brought on Shore in the Presence of the officers of the Court of Admiralty, and an Inventory thereof made; but there shall be no allowance to sell, exchange, or alienate the same in any manner, untill after that due and lawfull Process shall have been had against such prohibited Goods, and the Courts of Admiralty shall, by a Sentence pronounced, have confiscated the same, saving always as well the Ship itself, as any other Goods found therein, which by this Treaty, are to be esteemed free; neither may they be detained on Pretence of their being as it were infected by the prohibited Goods, much less shall they be confiscated as lawfull Prize: But if not the whole Cargo, but only Part thereof shall consist of prohibited or contraband Goods, and the Commander of the Ship shall be ready and willing to deliver them to the Captor who has discovered them, in such Case the Captor having received those Goods, shall forthwith discharge the Ship, and not hinder her by any Means freely to prosecute the Voyage on which she was bound.

ART. XVII.

On the Contrary, it is agreed, that whatever shall be found to be laden by the Subjects and Inhabitants of either Party, on any Ship belonging to the Enemy of the other, or to his Subjects, although it be not of the Sort of prohibited Goods, may be confiscated in the same Manner as if it belonged to the Enemy himself, except such Goods and Merchandise as were put on board such Ship before the Declaration of War, or even after such Declaration, if so be it were done without the Knowledge of such Declaration. So that the Goods of the Subjects or People of either Party, whether they be of the Mature of such as are prohibited, or otherwise which, as is aforesaid, were put on board any Ship belonging to an Enemy before the War, or after the Declaration of it, without the Knowledge of it, shall no wise be liable to Confiscation, but shall well and truly be restored without delay to the Proprietors demanding the same; but so as that if the said Merchandises be contraband, it shall not be any Ways lawfull to carry them afterwards to any Ports belonging to the Enemy.

ART. XVIII.

And that more effectual Care may be taken, for the Security of the Subjects, and Inhabitants of both Parties, that they suffer no Injury by the Men of War or Privateers of the other Party, all the Commanders of the Ships of the most Christian :King, and of the said United States and all their Subjects and Inhabitants, & shall be forbid, doing any Injury, or Damage to the other Side; and if they act to the contrary, they shall be punished, and shall moreover be bound to make Satisfaction for all matter of Damage, and the Interest thereof, by Reparation, under the Penalty and Obligation of their Person and Goods.

ART. XIX.

All Ships, and Merchandises, of what Nature soever, which shall be rescued out of the Hands of any Pirates, or Robbers on the high Seas, shall be brought into some Port of either State, and shall be delivered to the Custody of the officers of that Port, in order to be

restored entire to the true Proprietor, as Soon as due and sufficient Proof shall be made, concerning the Property, thereof.

ART. XX.

It shall be lawful for the! Ships of War of either Party, and Privateers, freely to carry whithersoever they please, the Ships and floods, taken from their Enemies, without being obliged to pay any Duty to the Officers of the Admiralty or any other Judges; nor shall such Prizes be arrested, or seized, when they come to, and enter the Ports of either Party; nor shall the Searchers, or other Officers of those Places search the same, or make Examination concerning the Lawfullness of such Prizes, but they may hoist Sail, at any Time and depart and carry their Prizes to the Place expressed in their Commissions, which the Commanders of such Ships of War shall be obliged to show. On the Contrary, no Shelter, or Refuge shall be given in their Ports to such as shall have made Prize of the Subjects, People, or Property, of either of the Parties; but if such should come in, being forced by Stress of Weather, or the Danger of the Sea, all proper Means shall be vigorously used, that they go out, and retire from thence as soon as possible.

ART. XXI.

If any Ships belonging to either of the Parties, their Subjects or People, shall, within the Coasts, or Dominions of the other, stick upon the sands or be wrecked, or suffer any other Damage, all friendly assistance and Relief shall be given to the Persons Shipwrecked, or sued as shall be in danger thereof; and Letters of Safe Conduct shall likewise be given to them for their free and quiet Passage from thence, and the Return of every one to his own Country.

ART. XXII.

In Case the Subjects and People of either Party, with their Shipping, whether public, and of War, or private and of Merchants, be forced through Stress of Weather, Pursuit of Pirates or Enemies, or any other urgent Necessity, for Seeking of Shelter and Harbour, to retreat, and enter into any of the Rivers, Creeks, Bays, Havens, Roads, Ports, or Shores, belonging to the other Party; they shall be received and treated with all Humanity, and Kindness, and enjoy all friendly Protection and Help; and they shall be permitted to refresh and provide themselves, at reasonable Rates, with Victuals and all Things needful for the Sustenance of their Persons, or Reparation of their Ships, and Conveniency of their Voyage; and they shall no Ways be detained or hindered from returning out of the said Ports or Roads, but may remove and depart when and whither they please, without any Lett or Hindrance;

ART. XXIII.

For the better promoting of Commerce on both Sides, it is agreed, that if a War shall break out between the Said two Nations, Six Months, after the Proclamation of War, shall be allowed to the Merchants, in the Cities and Towns where they live, for settling and transporting their Goods and Merchandises; and if any Thing be taken from them, or any Injury be done them within that Time

by either Party, or the People or Subjects of either, full Satisfaction shall be made for the Same.

ART. XXIV.

No Subjects of the most Christian King, shall apply for, or take any Commission or Letters of Marque for arming any Ship or Ships to net as Privateers, against the said United States or any of them, or against the Subjects, People, or Inhabitants of the said United States or any of them, or against the Property of any of the Inhabitants of any of them, from any Prince, or State with which the said United States shall be at War. Nor shall any Citizen, Subject, or Inhabitant, of the said United States or any of them, apply for, or take any Commission or Letters of Marque for arming any Ship or Ships to act as Privateers, against the Subjects of the most Christian King or any of them, or the Property of any of them, from any Prince or State, with which the said King shall be at War: And if any Person of either Nation shall take such Commissions or Letters of Marque, he shall be punished as a Pirate.

ART. XXV.

It shall not be lawful for any foreign Privateers not belonging [to the] Subjects of the most Christian King, nor Citizens of the said United States, who have Commissions from any other Prince or State, in Enmity with either Nation, to fit their Ships in the Ports of either the one or the other of the aforesaid Parties, to Sell what they have taken, or in any other manner whatsoever to exchange either Ships, Merchandizes, or any other Lading: neither shall they be allowed even to purchase Victuals, except such as shall be necessary for their going to the next Port of that Prince or State from which they have Commissions.

ART. XXVI.

It shall be lawful for all and Singular the Subjects of the most Christian King, and the Citizens, People, and Inhabitants of the said States, to Sail with their Ships, with all manner of Liberty and Security; no distinction being made, who are the Proprietors of the Merchandises laden thereon from any Port, to the Places of those who now are, or hereafter shall be at Enmity with the most Christian King, or the United States. It shall likewise be lawful for the Subjects and Inhabitants aforesaid, to sail with the Ships and Merchandizes aforementioned; and to trade with the same Liberty, and Security from the Places, Ports, and Havens of those who are Enemies of both, or either Party, without any opposition or Disturbance whatsoever, not only directly from the Places of the Enemy aforementioned to neutral Places; but also from one Place belonging to an Enemy, to another Place belonging to an Enemy, whether they be under the Jurisdiction of the same Prince or under Several: And it is hereby Stipulated that free Ships shall also give a Freedom to Goods, and that every Thing shall be deemed to be free and exempt, which shall be found on board the Ships, belonging to the Subjects of either of the Confederates; although the whole Lading or any Part thereof, should appertain to the Enemies of Either, Contraband Goods being always excepted. It is also agreed in like

manner, that the same Liberty, be extended to Persons, who are on board a free Ship with this Effect, that although they be Enemies to both or either Party, they are not to be taken out of that free Ship, unless they are Soldiers, and in actual Service of the Enemies.

ART. XXVII.

This Liberty of Navigation and Commerce shall extend to all Hinds of Merchandizes, excepting those only which are distinguished by the Name of Contraband: and under this Name of Contraband, or prohibited Goods, shall be comprehended Arms, Great Guns, Bombs with their Fuzes, and other Things belonging to them; Fire Balls, Gunpowder, Match, Cannon Ball, Pikes, Swords, Lances, Spears, Halberds, Mortars, Petards, Granadoes, Saltpetre, Muskets, Musket Balls, Helmets, Head Pieces, Breast Plates, Coats of Mail, and the like Kind of Arms proper for arming Soldiers, Musket rests, Belts, Horses with their Furniture, and all other war like Instruments whatsoever. These Merchandizes which follow, shall not be reckoned among Contraband or prohibited Goods; that is to Say, all Sorts of Cloths, and all other Manufactures woven of any Wool, Flax, Silk, Cotton, or any other Material whatever; all Kinds of Wearing apparel, together with the Species whereof they are used to be made; Gold and Silver, as well coined as uncoined, Tin, Iron, Lead, Copper, Brass, Coals; as also Wheat and Barley, and any other Kind of Corn and Pulse; Tobacco, and likewise all manner of Spices; Salted and Smoked Flesh, Salted Fish, Cheese and Butter, Beer, Oils, Wines, Sugars, and all Sorts of Salt; and in general, all Provisions which Serve for the Nourishment of Mankind, and the Sustenance of Life: Furthermore, all Hinds of Cotton, Hemp, Flax, Tar, Pitch, Ropes, Cables, Sails, Sail Cloth, Anchors, and any Parts of Anchors; also Ships' Masts, Planks, Boards, and Beams, of what Tree Soever; and all other Things proper either for building or repairing Ships, and all other Goods whatsoever which have not been worked into the Form of any Instrument or Thing prepared for War, by Band or by Sea, shall not be reputed Contraband much less such as have been already wrought and made up for any other use; all which shall wholly be reckoned among free Goods; as likewise all other Merchandizes and Things which are not comprehended, and particularly mentioned in the foregoing Enumeration of Contraband Goods; So that they may be transported and carried in the freest Manner by the Subjects of both Confederates, even to Places belonging to an Enemy, such Towns and Places being only excepted as are at that time besieged, blocked up, or invested.

ART. XXVIII.

To the End that all manner of Dissentions and Quarrells may be avoided and prevented on one Side and the other, it is agreed, that in Case either of the Parties hereto, should be engaged in a War, the Ships and Vessels belonging to the Subjects or People of the other Ally, must be furnished with Sea Letters or Passports, expressing the Name, Property and Bulk of the Ship, as also the Name and Place of Habitation of the Blaster or Commander of the said Ship, that it may appear thereby, that the Ship really and truly belongs to the Subjects of one of the Parties; which Passports shall be made out and granted according to the Form annexed to this Treaty. They

shall likewise be recalled every Year; that is, if the Ship happens to return home within the Space of a Year. It is likewise agreed, that such Ships being laden, are to be provided, not only with Passports as above mentioned, but also with Certificates, containing the Several Particulars of the Cargo, the Place whence the Ship sailed, and whither She is bound; that it may be known whether any forbidden or contraband Goods, be on board the same; which Certificates shall be made out by the Officers of the Place whence the Ship Set Sail, in the accustomed Form. And if any one shall think it fit or advisable to express in the said Certificates the Persons to whom the Goods on board belong, he may freely do so.

ART. XXIX.

The Ships of the Subjects and Inhabitants of either of the Parties, coming upon any Coast belonging to either of the said Allies, but not willing to enter into Port, or being entered into Port, and not willing to unload their Cargoes, or break Bulk, shall not be obliged to give an Account of their Lading, unless they should be Suspected, upon some manifest Tokens, of carrying to the Enemy of the other Ally, any prohibited Goods called Contraband; And in Case of such manifest Suspicion, the Parties shall be obliged to exhibit in the Ports, their Passports and Certificates!, in the manner before Specified.

ART. XXX.

If the Ships of the said Subjects, People or Inhabitants of either of the Parties, shall be met with, either Sailing along the Coast, or on the high Seas, by any Ship of War of the other, or by any Privateers, the said Ship of War or Privateers, for the avoiding of any disorder, shall remain out of Cannon Shot, and may send their Boats, on board the Merchant Ship, which they shall so meet with, and may enter her to the Number of two or three Men only, to whom the Master or Commander of such Ship or Vessel shall exhibit his Passport-, concerning the Property of the Ship, made out according to the Form inserted in this present Treaty; and the Ship when she shall have showed such Passport, shall be free and at Liberty to pursue her Voyage, so as it shall not be lawfull to molest or search her in any Manner, or to give her Chace, or force her to quit her intended Course. It is also agreed that all Goods when once put on board the Ship or Vessels of either Parties shall be subject to no farther Visitation, but all Visitation or Search shall be made before Hand; and all prohibited Goods shall be stops on the Spot, before the same be put on board the Ships or Vessels of the respec-

tive State: For shall either the Person or Goods of the Subjects of His most Christian Majesty or the United States be put under any Arrest or molested by any other Kind of Embargo for that Cause; and only the Subject of that State by whom the said Goods have or shall be prohibited, and shall presume to sell or alienate such sort of Goods, shall be duly punished for the Offense.

THE FORM OF THE SEA LETTERS AND PASSPORTS, TO BE GIVEN, TO SHIPS AND VESSELS, ACCORDING TO THE TWENTY-EIGHTH ARTICLE

To all who shall See these Presents Greeting: It is hereby made known, that Leave and Permission has been given to _____ Master and Commander of the Ship called _____ of the Town of _____ Burthen _____ Tons or thereabouts, lying at present in the Port and Haven of _____ and bound for _____ and laden with _____ after that his Ship has been visited, and before Sailing, he shall make Oath before the officers who have the Jurisdiction of maritime Affairs, that the said Ship belongs to one or more of the Subjects of _____ the Act whereof shall be put at the End of these Presenter as likewise that he will keep and cause to be kept by his Crew, on board, the Marine ordinances and Regulations, and enter in the proper Office a List signed and witnessed of the Crew of his Ship, and of all who shall embark, on board her, whom he shall not take on board without the Knowledge and Permission of the officers of the Marine; and in every Port and Haven where he shall enter with his Ship, he shall show this present Leave to the officers and Judges of the Marine, and shall give a faithfull account to them of what passed and was done during his Voyage, and he shall carry the Colours, Arms, and Ensigns of _____ during his Voyage.

In Witness whereof, We have Signed these Presents, and put the Seal of our Arms thereunto, and caused the Same to be countersigned by _____ at _____ the Day of _____ A. D. _____ .

THE FORM OF THE ACT CONTAINING THE OATH

We _____ of the Admiralty of _____ do certify that _____ Master of the Ship named in the above Passport, hath taken the oath mentioned therein.

Done at _____ the Day of _____ A. D. _____ .

The Form of the Certificate to be required of and to be given by the Magistrates or Officers of the Customs of the Town and Port in their respective Towns and Ports, to the Ships and Vessels, which Sail from thence, according to the Directions of the 28th Article of this present Treaty.

We, _____ Magistrates (or officers of the Customs) of the Town and Port of _____ do certify and attest, that on the _____ Day of the Month of _____ in the Year of our Lord personally

appeared before Us, _____ of _____ and declared by a Solemn Oath, that the Ship or Vessel called _____ of about _____ Tons whereof of _____ his usual Place of Habitation, is Master or Commander, does rightfully and properly belong to him and others Subjects of _____ and to them alone: That She is now bound from the Port of _____ to the Port of _____ laden with the Goods and Merchandizes hereunder particularly described and enumerated, that is to Say,

In Witness whereof we have Signed this Certificate, and Sealed it with the Seal of our office. Given the _____ day of the Month of _____ in the Year of our Lord _____ . ■

Source

Journals of the Continental Congress 1774-1779, Edited from the original records in the Library of Congress by Worthington Chauncey Ford; Chief, Division of Manuscripts. Washington, DC : Government Printing Office, 1905.

The Avalon Project: Documents in Law, History, and Diplomacy, Yale Law School, Lillian-Goldman Law Library

http://avalon.law.yale.edu/18th_century/fr1778p.asp